

CONTRACT FOR PROFESSIONAL SERVICES

AGREEMENT BETWEEN THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY AND NMS LABS

This Professional Service Contract is made by and between the Mississippi Department of Public Safety ("DPS"), a state agency, whose address is 1900 East Woodrow Wilson Avenue, Jackson, MS 39216 and National Medical Services, Inc. d/b/a NMS Labs, ("Contractor") whose address is 200 Welsh Road, Horsham, PA 19044, under the following terms and conditions:

1. **SCOPE OF SERVICES** Contractor agrees to perform and complete, in a timely and satisfactory manner, forensic testing services for the Mississippi Forensics Laboratory, as described in Exhibit "A," captioned "Scope of Services," which is attached hereto and made a part hereof by reference.
2. **CONSIDERATION** DPS agrees to pay Contractor \$1,500,000.00 per year for a total payment not to exceed \$6,000,000.00 for services to be performed pursuant to this Agreement. Contractor will be paid according to the prices listed in Exhibit "B," captioned "Vendor Cost."

During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the Agency shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the Agency for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the Agency is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the Agency may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.

3. **CONTRACT TERM** The contract period shall begin on July 7, 2021, for a period of time not to exceed four (4) years with an option to renew for one year, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.
4. **PAYMENT TERMS** Contractor shall submit monthly invoice(s) to DPS for services rendered. Payment will be made by DPS to Contractor within 45 days of the receipt of approved invoice. Contractor shall submit to DPS invoices in such form and including

such reasonable detail as may be required, along with supporting documentation of the activities performed pursuant to this contract.

5. **E-PAYMENT** Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. DPS agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies", Section 31-7-301, *et seq.* of the 1972 Mississippi Code Annotated, as amended, which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of the invoice.
6. **PAYMODE** Payments by DPS using the Statewide Accounting System shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State, may, at its sole discretion, require Contractor to submit invoices and supporting documentation electronically at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.
7. **AVAILABILITY OF FUNDS** It is expressly understood and agreed that the obligation of DPS to proceed under this Agreement are conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to DPS, DPS shall have the right upon ten (10) working days written notice to Contractor, to terminate this Agreement without damage, penalty, cost or expenses to DPS of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
8. **PROCUREMENT REGULATIONS** This contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.
9. **APPROVAL CLAUSE** It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review, and if this contract is not approved by the PPRB and/or OPSCR, it is void, and no payment shall be made hereunder.
10. **REPRESENTATION REGARDING CONTINGENT FEES** Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's bid or proposal.

11. **REPRESENTATION REGARDING GRATUITIES** Contractor represents and promises that it has not violated, is not violating and will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.
12. **APPLICABLE LAW** The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.
13. **ANTI-ASSIGNMENT/SUBCONTRACTING** Contractor acknowledges that it was selected by DPS to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract or otherwise transfer in whole or in part, its right or obligations under this Agreement without prior written consent of DPS, which DPS may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer without said consent shall be null and void. No such approval by DPS of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of DPS in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that DPS may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
14. **COMPLIANCE WITH LAWS** Contractor understands that DPS is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful, and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this Agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
15. **TRANSPARENCY** This Contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this Contract is subject to provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential contractor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes will be redacted.

16. E-VERIFICATION

If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term “employee” as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, “status verification system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

- (1) termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- (2) the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- (3) both. In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

- 17. INDEPENDENT CONTRACTOR STATUS** Contractor shall, at all times, be regarded as and shall be legally considered an Independent Contractor and shall at no time act as an agent for DPS. Nothing contained herein shall be deemed or construed by DPS, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between DPS and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of DPS or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of DPS and Contractor. Contractor’s personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of DPS. (No act performed, or representation made, whether oral or written, by Contractor with respect to third parties shall be binding on DPS.) This sentence is not located in these updated rules. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of DPS; and DPS shall at no time be legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. DPS shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, DPS shall not provide to Contractor any insurance coverage or other benefits,

including Worker's Compensation, normally provided by DPS for its employees.

18. **TERMINATION FOR CONVENIENCE**

- A. *Termination.* DPS Commissioner or their designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Commissioner or their designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.
- B. *Contractor's Obligations.* Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Commissioner or their designee may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

19. **TERMINATION FOR DEFAULT**

- A. *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, DPS Commissioner or their designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by DPS Commissioner or their designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, DPS Commissioner or their designee may procure similar supplies or services in a manner and upon terms deemed appropriate by DPS Commissioner or their designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- B. *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the procurement officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.
- C. *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. DPS may withhold from amounts due Contractor such sums as DPS Commissioner or their designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and

services.

- D. *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified DPS Commissioner or their designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, DPS Commissioner or their designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in the Paragraph of this clause the term "subcontractor" means subcontractor at any tier).
- E. *Erroneous Termination for Default.* If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (D) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.
- F. *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.
20. **TERMINATION UPON BANKRUPTCY** This contract may be terminated in whole or in part by DPS upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this contract, but in no case shall said compensation exceed the total contract price.
21. **OWNERSHIP OF DOCUMENTS AND WORK PAPERS** DPS shall own all documents, reports, work papers and working documentation, electronic or otherwise,

created in connection with the Project which is the subject of this Agreement, except for Contractor's internal administrative and control assurance files and internal project correspondence. Upon request, Contractor shall deliver such documents and work papers to DPS upon termination or completion of the Agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files.

22. **INDEMNIFICATION** To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless protect, and exonerate DPS, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney's fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement, unless caused by the negligence of DPS. In the State's sole discretion upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.

23. **CHANGE IN SCOPE OF WORK** DPS may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by DPS and Contractor.

If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, Contractor must immediately notify DPS in writing of this belief. If DPS believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

24. **STOP WORK ORDER**

- A. *Order to Stop Work:* The Chief Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the

period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:

- i. cancel the stop work order; or
- ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this contract.

B. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:

- i. the stop worker order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and
- ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.

C. *Termination of Stopped Work:* If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

D. *Adjustments of Price:* Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

25. **INSURANCE** Contractor shall maintain at least the minimum level of worker's compensation insurance, comprehensive general liability or professional liability insurance, with minimum limits of \$1,000,000.00 per occurrence. All workers' compensation, comprehensive general liability, professional liability insurance and fidelity bond insurance will provide coverage to DPS as an additional insured. DPS reserves the right to request from carriers certificates of insurance regarding the required coverage. Insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance. Contractor shall be prepared to provide evidence of required insurance upon request by DPS at any point during the contract period and should consult with legal counsel regarding its obligations.

26. **CONTRACT MANAGEMENT** If the Contractor fails to adhere to the forensic testing service schedule, or if the Contractor fails to satisfactorily provide the prescribed service to all or any service area, DPS will inform the Contractor, and the Contractor shall complete corrective action within twenty-four (24) hours. No payment shall be made to the

Contractor until all deficiencies have been corrected. If the Contractor exhibits a pattern of non-performance as shown by repeated deficiencies, the Contracting Agency may terminate the contract without further obligation to the Contractor.

27. **TRADE SECRETS, COMMERCIAL AND FINANCIAL INFORMATION** It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.
28. **ATTORNEY'S FEES AND EXPENSES** Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to DPS all reasonable costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by DPS in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall DPS be obligated to pay any attorney's fees or costs of legal action to Contractor.
29. **AUTHORITY TO CONTRACT** Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
30. **DEBARMENT AND SUSPENSION** Contractor certifies to the best of its knowledge and belief, that it:
- A. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
 - B. has not, within a (3) year period preceding this proposal, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
 - C. has not, within a (3) year period preceding this proposal, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- D. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
- E. has not, within a (3) year period preceding this proposal, had one or more public transactions (federal, state, or local) terminated for cause or default.
31. **MODIFICATION OR RENEGOTIATION** This agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or state revisions of any applicable laws or regulations make changes in this agreement necessary.
32. **CONTRACTOR PERSONNEL** DPS shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If DPS reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to DPS in a timely manner and at no additional cost to DPS. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.
33. **WAIVER** No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.
34. **FAILURE TO DELIVER** In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, DPS, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that DPS may have.
35. **FAILURE TO ENFORCE** Failure by DPS at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of DPS to enforce any provision at any time in accordance with its terms.
36. **SEVERABILITY** If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

37. **NO LIMITATION OF LIABILITY** Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages incurred through the negligent performance of duties by Contractor or the delivery of products that are defective due to negligent construction.
38. **HEADINGS** Headings and titles of sections in this contract are included herein for convenience of reference only and shall not constitute a part of the contract for any other purpose and will not affect in any way the meaning or interpretation of this contract.
39. **SCOPE OF AGREEMENT** This agreement incorporates all the agreements covenants and understandings between the parties hereto concerning the subject matter hereof and all such covenants agreements and understanding have been merged into this written agreement. No prior agreements or misunderstanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless stated in this agreement. Contractor has no obligation to perform any duties or services (and will bear no responsibility for duties and services) other than those expressly specified in the Agreement.
40. **ORAL STATEMENTS** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All limitations to the contract must be made in writing by DPS and agreed to by Contractor.
41. **NOTIFICATION** All notices required or permitted to be given under this Agreement must be in writing and personally delivered or sent by certified United States mail postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.
42. **HIPAA** Contractor agrees to comply with the Final Omnibus Rule of the Health Insurance Portability and Accountability Act of 1996 and any amendments there too, including electronic data interchange, code sets, identifiers', security and privacy provisions, as may be applicable to the service under this contract.
43. **FORCE MAJEURE** Each party shall be excused from performance for any performance for any period and to the extent that it is prevented from performing any obligation or services, in whole or in part, as a result of causes beyond the reasonable control and without the fault of negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters ("force majeure events"). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for period equal to the duration of the delay caused by such events, unless, the State determines it to be in its best interest to terminate the agreement.

The following persons have been empowered to act as the duly authorized representatives for execution of this contract:

For Contractor:

Name: Dan Monahan
200 Welsh Road
Horsham, PA 19044

For DPS:

Sean J. Tindell
1900 East Woodrow
Wilson Avenue
Jackson, MS 39216

National Medical Services, Inc.
(d/b/a NMS Labs)

By: 
Dan Monahan, President & CEO

Mississippi Department of Public Safety

By: 
Sean J. Tindell
Commissioner

Date: July 15, 2021

Date: 7/19/21

EXHIBIT "A"

SCOPE OF SERVICES

The Contractor shall perform the following services and meet the following specifications and requirements in fulfillment of the purposes of this Agreement, as follows:

Services and Specifications

Contractor shall provide customized testing and reporting services for forensic drug testing in ante and postmortem human biological samples on behalf of the State. There will be approximately 2,500 subjects. The samples tested will consist mainly of blood in gray top tubes. There will be urine, vitreous fluid and other body tissues submitted on lesser occasions.

Requirements

1. Contractor shall maintain the minimum laboratory licensure requirements - CLIA and CAP.
2. Contractor shall hold and maintain ISO 17025:2017 accreditation by ANAB and ABFT accreditation in the discipline of Postmortem Toxicology, which is in alignment with the Mississippi Forensics Laboratory accreditation requirements.
3. Contractor shall hold and maintain ANAB ISO 17025:2017 accreditation in the discipline of Seized Drugs and hold/maintain licensure by the U.S Drug Enforcement Administration. Contractor must be able to accommodate drug identification backlogs as well as on-going submission of samples. This shall include the ability to differentiate between hemp and marijuana through quantitation for botanicals, waxes, oils, tinctures, and edibles. The ability to quantitate other drug compounds.
4. Contractor's laboratory shall provide an example of an existing panel that triggers/reflexes to other testing to a different matrix for metabolites to demonstrate their testing flexibility.
5. Contractor shall participate in external Proficiency Testing Programs – CAP etc.
6. The Contractor's laboratory shall conduct in-house Proficiency Testing and Quality Assurance Programs, with ability to present documentation upon demand.
7. All forensic testing services to be performed on site at the Contractor's laboratory facilities. Contractor's laboratory shall not utilize a subcontractor for toxicology testing.
8. Contractor's laboratory shall maintain an extensive surveillance library of novel psychoactive substances containing at least forty (40) compounds that is routinely updated, minimally twice per year.
9. Contractor shall not subcontract and will perform all work with their own personnel and equipment, unless expressly written in the response to bid.

10. Contractor's Laboratory Director must be ABFT certified – laboratory must have a minimum of one additional ABFT certified toxicologist to provide expert services and back up.
11. Contractor shall employ on staff multiple, minimum of four, full time ABFT board-certified Toxicologists with active membership in relevant professional organizations working on the premises of the laboratory a minimum of 90% of time. This provision offers multiple Toxicologists available to address client inquiries, provide back up to clients, ease of availability for consultation, scheduling of Expert Services support as needed and gives a broader pool of technical experience to support all customers.
12. Expert Witness Testimony available with experience in forensic toxicology cases.
13. Contractor shall have historical proof of operational capacity to handle a minimum of 5,000 postmortem toxicology cases per month per month, or 12,500 forensic samples per month.
14. Contractor shall have historical proof of operational capacity to handle a minimum of 2,500 drug identification exhibits per month or 30,000 exhibits per year. This may reflect multiple laboratories within the accredited system.
15. No cancelled contracts for performance.
16. Contractor shall provide 24/7 Hotline for Public Health and Safety emergencies where Toxicology testing and/or consultation may be required.
17. Contractor has active integrations with JusticeTrax and other LIMS systems for report delivery to forensic clients.
18. Complete list of compounds included in routine toxicology panels – used to compare the scope of testing offered by prospective contractors to include limits of reporting for each compound.
19. Must have a documentable record of ability to handle routine and nonroutine specimens.
 - a. Fluids – blood, serum, plasma, urine, vitreous, gastric, bile, hair
 - b. Solids – tissues, all solid organs, bone, injection sites, hair, nails, teeth, decomposed tissue, embalmed bodies, exhumed bodies, Insect Larvae
20. Result Reporting.
21. Complete Internal Chain of Custody – confirmed by laboratory site inspection if desired by Contractor.
22. Standard Operating Procedures – the laboratory should have documented SOP's available to support specimen handling, analytical procedures, Quality Control procedures and maintenance records of analytical instrumentation.

23. Specimen Storage – the laboratory must secure and maintain the specimen for a period of one (1) year in such a manner to prevent contamination and degradation. The laboratory must be willing to work with third parties (attorneys, etc.) to extend the storage period at the third party's expense with required and approved written authorization.
24. Confidentiality – Contractor will be required to use reasonable care to protect the confidentiality of the clients.
25. Non-Biological Testing capabilities – Seized Drugs analysis with ANAB ISO 17025:2017 accreditation and DEA licensure. Ability to differentiate between hemp and marijuana through quantitation for botanicals, waxes, oils, tinctures, and edibles. The ability to quantitate other drug compounds.
26. True forensic testing – utilization two different analytical techniques or analysis performed by similar analytical methods on two separate specimen aliquots.
27. Contractor must supply – collection kits specific for forensic cases, chain of custody forms, preprinted requisition forms, shipping packaging and labels.
28. Require current directory or on-line Test Catalog of comprehensive scope of tests available.
29. Contractor shall provide an annual positivity report that will be reviewed with a toxicologist/certifying scientist.